

§ 1904.2

29 CFR Ch. XVII (7–1–12 Edition)

(2) If your company had more than ten (10) employees at any time during the last calendar year, you must keep OSHA injury and illness records unless your establishment is classified as a partially exempt industry under § 1904.2.

(b) *Implementation*—(1) *Is the partial exemption for size based on the size of my entire company or on the size of an individual business establishment?* The partial exemption for size is based on the number of employees in the entire company.

(2) *How do I determine the size of my company to find out if I qualify for the partial exemption for size?* To determine if you are exempt because of size, you need to determine your company's peak employment during the last calendar year. If you had no more than 10 employees at any time in the last calendar year, your company qualifies for the partial exemption for size.

§ 1904.2 Partial exemption for establishments in certain industries.

(a) *Basic requirement.* (1) If your business establishment is classified in a specific low hazard retail, service, finance, insurance or real estate industry listed in appendix A to this subpart B, you do not need to keep OSHA injury and illness records unless the government asks you to keep the records under § 1904.41 or § 1904.42. However, all employers must report to OSHA any workplace incident that results in a fatality or the hospitalization of three or more employees (see § 1904.39).

(2) If one or more of your company's establishments are classified in a non-exempt industry, you must keep OSHA injury and illness records for all of such establishments unless your company is partially exempted because of size under § 1904.1.

(b) *Implementation*—(1) *Does the partial industry classification exemption apply only to business establishments in the retail, services, finance, insurance or real estate industries (SICs 52–89)?* Yes, business establishments classified in agriculture; mining; construction; manufacturing; transportation; communication, electric, gas and sanitary services; or wholesale trade are not eligible for the partial industry classification exemption.

(2) *Is the partial industry classification exemption based on the industry classification of my entire company or on the classification of individual business establishments operated by my company?* The partial industry classification exemption applies to individual business establishments. If a company has several business establishments engaged in different classes of business activities, some of the company's establishments may be required to keep records, while others may be exempt.

(3) *How do I determine the Standard Industrial Classification code for my company or for individual establishments?* You determine your Standard Industrial Classification (SIC) code by using the Standard Industrial Classification Manual, Executive Office of the President, Office of Management and Budget. You may contact your nearest OSHA office or State agency for help in determining your SIC.

§ 1904.3 Keeping records for more than one agency.

If you create records to comply with another government agency's injury and illness recordkeeping requirements, OSHA will consider those records as meeting OSHA's part 1904 recordkeeping requirements if OSHA accepts the other agency's records under a memorandum of understanding with that agency, or if the other agency's records contain the same information as this part 1904 requires you to record. You may contact your nearest OSHA office or State agency for help in determining whether your records meet OSHA's requirements.

NON-MANDATORY APPENDIX A TO SUBPART B OF PART 1904—PARTIALLY EXEMPT INDUSTRIES

Employers are not required to keep OSHA injury and illness records for any establishment classified in the following Standard Industrial Classification (SIC) codes, unless they are asked in writing to do so by OSHA, the Bureau of Labor Statistics (BLS), or a state agency operating under the authority of OSHA or the BLS. All employers, including those partially exempted by reason of company size or industry classification, must report to OSHA any workplace incident that results in a fatality or the hospitalization of three or more employees (see § 1904.39).

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| SIC code | Industry description | SIC code | Industry description |
|-----------|--|-----------|---|
| 525 | Hardware Stores | 725 | Shoe Repair and Shoeshine Parlors. |
| 542 | Meat and Fish Markets | 726 | Funeral Service and Crematories. |
| 544 | Candy, Nut, and Confectionery Stores | 729 | Miscellaneous Personal Services. |
| 545 | Dairy Products Stores | 731 | Advertising Services. |
| 546 | Retail Bakeries | 732 | Credit Reporting and Collection Services. |
| 549 | Miscellaneous Food Stores | 733 | Mailing, Reproduction, & Stenographic Services. |
| 551 | New and Used Car Dealers | 737 | Computer and Data Processing Services. |
| 552 | Used Car Dealers | 738 | Miscellaneous Business Services. |
| 554 | Gasoline Service Stations | 764 | Reupholstery and Furniture Repair. |
| 557 | Motorcycle Dealers | 78 | Motion Picture. |
| 56 | Apparel and Accessory Stores | 791 | Dance Studios, Schools, and Halls. |
| 573 | Radio, Television, & Computer Stores | 792 | Producers, Orchestras, Entertainers. |
| 58 | Eating and Drinking Places | 793 | Bowling Centers. |
| 591 | Drug Stores and Proprietary Stores | 801 | Offices & Clinics Of Medical Doctors. |
| 592 | Liquor Stores | 802 | Offices and Clinics Of Dentists. |
| 594 | Miscellaneous Shopping Goods Stores | 803 | Offices Of Osteopathic. |
| 599 | Retail Stores, Not Elsewhere Classified | 804 | Offices Of Other Health Practitioners. |
| 60 | Depository Institutions (banks & savings institutions) | 807 | Medical and Dental Laboratories. |
| 61 | Nondepository | 809 | Health and Allied Services, Not Elsewhere Classified. |
| 62 | Security and Commodity Brokers | 81 | Legal Services. |
| 63 | Insurance Carriers | 82 | Educational Services (schools, colleges, universities and libraries). |
| 64 | Insurance Agents, Brokers & Services | 832 | Individual and Family Services. |
| 653 | Real Estate Agents and Managers | 835 | Child Day Care Services. |
| 654 | Title Abstract Offices | 839 | Social Services, Not Elsewhere Classified. |
| 67 | Holding and Other Investment Offices | 841 | Museums and Art Galleries. |
| 722 | Photographic Studios, Portrait | 86 | Membership Organizations. |
| 723 | Beauty Shops | 87 | Engineering, Accounting, Research, Management, and Related Services. |
| 724 | Barber Shops | 899 | Services, not elsewhere classified. |

Subpart C—Recordkeeping Forms and Recording Criteria

NOTE TO SUBPART C: This subpart describes the work-related injuries and illnesses that an employer must enter into the OSHA records and explains the OSHA forms that employers must use to record work-related fatalities, injuries, and illnesses.

§ 1904.4 Recording criteria.

(a) *Basic requirement.* Each employer required by this part to keep records of fatalities, injuries, and illnesses must record each fatality, injury and illness that:

- (1) Is work-related; and
- (2) Is a new case; and

(3) Meets one or more of the general recording criteria of § 1904.7 or the application to specific cases of § 1904.8 through § 1904.12.

(b) *Implementation—(1) What sections of this rule describe recording criteria for recording work-related injuries and illnesses?* The table below indicates which sections of the rule address each topic.

(i) Determination of work-relatedness. See § 1904.5.

(ii) Determination of a new case. See § 1904.6.

(iii) General recording criteria. See § 1904.7.

(iv) Additional criteria. (Needlestick and sharps injury cases, tuberculosis cases, hearing loss cases, medical removal cases, and musculoskeletal disorder cases). See § 1904.8 through § 1904.12.

(2) *How do I decide whether a particular injury or illness is recordable?* The decision tree for recording work-related injuries and illnesses below shows the steps involved in making this determination.